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BEFORE THE ARIZONA CORPORATION

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COMMISSIONERS

JEFF HATCH-MILLER, CHAIRMAN

WILLIAM A. MUNDELL

MARK SPITZER

MIKE GLEASON

KRISTIN K. MAYES

2005 OCT 12 P 3:39

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE
APPLICATION OF WATER UTILITY OF
GREATER TONOPAH, INC., FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY

DOCKET NO. W-02450A-05-0430

WATER UTILITY OF
GREATER TONOPAH'S
OPPOSITION TO
SIERRA NEGRA RANCH, LLC'S
APPLICATION TO INTERVENE

Water Utility of Greater Tonopah ("WUGT"), by and through its undersigned legal counsel, hereby respectfully opposes the untimely and insufficient Application to Intervene filed in the above-entitled matter on October 3, 2005 by Sierra Negra Ranch, LLC ("Sierra Negra"), as well as its Request to Supplement the Record filed October 5, 2005. For the reasons set forth herein, the Application to Intervene and Request to Supplement must be denied.

I. The Application is Untimely

Under the Procedural Order entered in this matter on July 18, 2005, all applications to intervene were to be filed no later than August 24, 2005. The reason for an intervention cutoff is to ensure that parties (and their purported interests in a proceeding) are identified sufficiently in advance to allow adequate participation and avoid the surprise and delay that often accompanies last minute interventions. Sierra Negra's Application to

1 Intervene not only missed the date for intervention, it was also filed 21 days after the
2 evidentiary hearing was conducted. Sierra Negra's Application does not justify its failure to
3 file for intervention in a timely manner. Its implication that it did not know of the
4 proceeding is legally irrelevant and factually incorrect.

6 **A. Receipt of Notice is not Required by Law**

7 In Arizona, "there is no requirement that notice of the application hearing be
8 given to all landowners or potential water customers residing within the area covered by an
9 original application for a certificate of convenience and necessity to operate a domestic water
10 utility." *Walker v. De Concini*, 86 Ariz. 143, 148, 341 P.2d 933, 936 (1959); *Arizona*
11 *Corporation Commission v. Tucson Insurance and Bonding Agency*, 3 Ariz. App. 458, 415
12 P. 472 (1966) ("*Tucson Insurance*"). In both cases the court rejects a landowner's claim that
13 a certificate of convenience and necessity was invalid because the landowner did not receive
14 notice of the original application. Thus, landowners are not indispensable parties to a CC&N
15 proceeding. They are allowed to intervene only at the discretion of the Commission. A
16 failure to comply with the time frames established by Commission rule, or as in this matter,
17 by procedural order, must be supported by good cause. Sierra Negra's Application and
18 Supplement makes no good cause showing at all.

22 WUGT informed Sierra Negra, not once, but on four separate occasions, that it
23 was correcting the Commission's records so WUGT, rather than West Phoenix Water
24 Company was reflected as the certificate holder. Sierra Negra never informed WUGT that it
25 held legal title to any property encompassed by the Application; nor did Sierra Negra
26 indicate to WUGT that it had any concerns with WUGT's Application. Sierra Negra has not
27
28

1 justified its late effort to interject itself in this proceeding after the close of the hearing.

2 **B. Sierra Negra Received Actual Notice that**
3 **this Matter was Pending before the ACC**

4 Sierra Negra admits that WUGT informed representatives of Sierra Negra of
5 WUGT's intent to pursue the pending matter, but implies that it was not informed that an
6 application was actually pending with the Commission. The implication is false. Sierra
7 Negra was informed of WUGT's Application both before and after it was filed with the
8 Commission.
9

10 When Sierra Negra's representative, Bryan P. O'Reilly, first met with John
11 Mihlik, Sr. on June 7, 2005, he was informed of WUGT's intent to file this Application. The
12 Application was then filed three (3) days later on June 10, 2005. In contrast, Mr. O'Reilly
13 never informed WUGT that it had acquired title to property. As a result, Mr. Mihlik
14 understood Sierra Negra was merely undertaking due diligence research regarding a potential
15 purchase or development. *See*, Affidavit of J. John Mihlik, Sr. attached hereto as Exhibit A.
16
17

18 In a phone conversation conducted August 1, 2005, John Mihlik, Jr. informed
19 Mr. O'Reilly that the Application was pending and that Staff had asked some questions
20 concerning potential development in the area. Mr. O'Reilly specifically requested that
21 WUGT keep Sierra Negra's involvement and development concepts confidential. *See*,
22 Affidavit of J. John Mihlik, Jr. attached hereto as Exhibit B.
23

24 In yet another meeting conducted with Mr. O'Reilly on August 9, 2005, Mr.
25 Mihlik, Sr. again briefly discussed the fact that the Application was pending before the
26 Arizona Corporation Commission. *See*, Affidavit of J. John Mihlik, Sr. attached hereto as
27
28

1 Exhibit A.

2 Thus, Negra Sierra was directly informed on three occasions prior to the
3 intervention cutoff date about this Application and WUGT's intent to correct the
4 Commission's records so WUGT, rather than West Phoenix Water Company, Inc., is
5 reflected as the holder of the certificate of convenience and necessity.
6

7 **C. Sierra Negra also Received Notice through Publication**

8 In addition to receiving actual notice, Sierra Negra received notice through
9 publication. WUGT caused notice of the Intervention cutoff date and hearing date to be
10 published in the West Valley View Newspaper on August 12, 2005. A copy of the Affidavit
11 of publication is attached as Exhibit C.
12

13 **D. Sierra Negra was not the Landowner reflected on**
14 **the Assessor's Website as of August 5, 2005**

15 WUGT also mailed notice directly to the nine entities reflected on the
16 Maricopa County Assessor's Website as landowners. WUGT conducted the search on the
17 day it mailed the notice (August 5, 2005). As reflected on Exhibit D attached hereto, Sierra
18 Negra was not listed.
19

20 As Sierra Negra had never indicated to WUGT that it was the legal title holder
21 of the property, WUGT had no reason to question the landowner list obtained from the
22 Assessor's website. Notice was mailed to the nine entities listed, including Phoenix I-10,
23 LLC (the entity from whom Sierra Negra purchased the Property).¹ See, Affidavit of John
24
25

26 ¹ It is common practice for a real estate purchase agreement to require the seller to inform the buyer immediately if legal
27 notices are received regarding the property. If Sierra Negra's purchase agreement failed to include such a provision or if
28 the Seller failed to comply therewith, such issues are between the Buyer and the Seller and do not justify untimely
intervention in this proceeding.

1 Mihlik, Jr. attached hereto as Exhibit B.

2 In summary, WUGT provided oral notice of its intent to file the Application. It
3 then, on two separate occasions informed Sierra Negra that the application was pending
4 before the Commission. WUGT, in accordance with the Procedural Order, published notice
5 of the proceeding in a paper of general circulation and mailed notice to the landowners
6 reflected on the County Assessor's website as of August 5, 2005. Sierra Negra provides no
7 justification for failing to timely file an Application to Intervene.
8
9

10 **II. There is no Direct and Substantial Affect on the Applicant**

11 Generally the owner of land sought to be included within a certificate of
12 convenience and necessity would be directly and substantially affected by an extension
13 proceeding. However, this is not the usual case.
14

15 WUGT seeks only to amend a decision of the Commission so it properly
16 reflects the action taken twenty (20) years ago. The record clearly reflects that Section 31,
17 T2N, R6W was initially included within the Certificate of Convenience and Necessity of the
18 Tonopah Water Company by Decision No. 33424, dated October 6, 1961. Tonopah Water
19 Company transferred *all* of its CC&N to West Phoenix Water Company by Decision No.
20 39759, dated December 5, 1968. All of West Phoenix Water Company's CC&N was
21 subsequently transferred by Decision Nos. 54418 and 54419, dated April 1, 1985, in part to
22 the Northwest Buckeye Water Company (now the Water Utility of Greater Buckeye, Inc.)
23 and, in part, to the West Buckeye Water Company (now the Water Utility of Greater
24 Tonopah, Inc.). The legal description, however, omitted a section and a half of land
25 certificated to West Phoenix Water Company. Sierra Negra has no direct or substantial
26
27
28

1 interest in the correction of a Decision entered prior to its acquisition of 20 years ago.

2 **III. The Applicant Seeks to Unduly Broaden the Issues**

3
4 In its supplement, Sierra Negra lists three reasons for granting it intervention:

5 a) general opposition to inclusion; b) a general questioning of WUGT's ability to provide
6 adequate service; and c) a stated preference for a provider that can provide integrated water
7 and sewer service.² These areas are not in dispute or are irrelevant and therefore to permit
8 any further testimony thereon constitutes an undue broadening of the issues.
9

10 **A. Opposition to Inclusion**

11 The issue of whether the lands are to be certificated or whether the certificate is
12 to be transferred to WUGT were determined in 1961 and 1985 respectively. Sierra Negra
13 has no standing today to object to the amendment necessary to correctly reflect a
14 Commission action taken twenty years ago when Sierra Negra likely did not even exist. The
15 sole issue presented by this docket is the best method of procedurally correcting a clerical
16 omission made in 1985.
17

18 The Arizona Supreme Court in *James P. Paul Water Co. v. Arizona Corp.*
19 *Com'n*, 137 Ariz. 426, 429, 671 P.2d 404, 407 (1983) explained:
20

21 "Once granted, the certificate confers upon its holder an exclusive
22 right to provide the relevant service for as long as the grantee can
23 provide adequate service at a reasonable rate. If a certificate of
24 convenience and necessity within our system of regulated monopoly
25 means anything, it means that its holder has the right to an
26 opportunity to adequately provide the service it was certified to
27 provide. Only upon a showing that a certificate holder, presented
28 with a demand for service which is reasonable in light of projected
need, has failed to supply such service at a reasonable cost to

² The third item is also re-phrased as a fourth concern in Sierra Negra's pleading.

1 customers, can the Commission alter its certificate. Only then would
2 it be in the public interest to do so."

3 The court continued:

4 A system which did not provide certificate holders with an
5 opportunity to provide adequate service at reasonable rates before
6 deletion of a certificated area could be made would be antithetical to
7 the public interest for several reasons. First, it would encourage price
8 competition between public service corporations, the very mode of
9 operation which the Legislature has rejected. Second, it encourages
10 over-extensive development. In order to ensure that they will be able
11 to supply service as the need arises, certificate holders will feel
12 compelled to construct facilities before facilities are needed. The
13 consuming public will ultimately pay for this needless construction
14 which may, given the rate of technological development, prove to be
15 obsolete by the time it is needed. Third, it fails to reward a public
16 service corporation for taking on the risks and obligations
17 concomitant to certification.

18 *Id.* 137 Ariz. at 429-30, 671 P.2d at 407-08.

19 WUGT is ready, willing and able to provide water service to its
20 certificated area and has done so cost effectively for 20 years without customer or
21 regulatory complaint.

22 In *Tucson International* the Court of Appeals emphasized:

23 "Arbitrary deletion of areas of 160 acres or more, merely because a
24 landowner objects to the inclusion of his land in a certificated area,
25 obviously discriminates against the small landowner and has no
26 basis in public convenience and necessity. A water company's
27 ability, from an economical standpoint, to serve many small property
28 owners may hinge upon the inclusion of a larger parcel of land in its
certificate. If owners of a substantial amount of acreage may
arbitrarily delete their holdings from a certificate, a property right
without legal precedent is thereby granted them, which might be sold
or otherwise exploited to the ultimate detriment of the using public.

3 Ariz App. at 463, 415 P.2d at 477.

1
2 **B. WUGT is able to provide Adequate Service**

3 WUGT has been meeting the needs of customers located within WUGT's
4 certificated area for 20 years. It has done so without complaint from customers or regulators.
5 Its parent, West Maricopa Combine, owns five (5) public service corporations in Arizona
6 and services over 3,000 customers. The Commission Staff and the Company testified that
7 WUGT is a fit and proper entity to provide service to Section 31. Sierra Negra presents no
8 factual basis to justify its concerns, let alone to warrant re-opening the record to take further
9 evidence.³
10

11
12 **C. A Single Water and Sewer provider is not at issue.**

13 This docket does not involve the provision of sewer service. Sierra Negra's
14 preference for a single provider to provide both water and sewer service is irrelevant. There
15 are no competing applicants vying for this service. To the contrary, this case involves only
16 correcting the Commission's records to reflect the transfer of West Phoenix Water's CC&N
17 to WUGT that occurred 20 years ago.
18

19 Furthermore, the issue of an integrated water and wastewater provider system
20 is a red herring. There is no legal or operational requirement that water and sewer service be
21 provided by a single entity. Water and wastewater systems do not require a single owner. If
22 this were not the case, Title 48 would not allow separate domestic water improvement
23 districts and sanitary districts to be formed. It is no more necessary for water and sewer
24
25

26 ³ Sierra Negra's original Application to Intervene made factual allegations premised on a Staff Report filed in another
27 docket (W-02450A-04-0837). The information cited by the Applicant (and Staff) was outdated and failed to reflect the
28 true condition of WUGT's public systems. In fact, Staff filed an Amended Report on September 30, 2005 in Docket No.
W-02450A-04-0837 eliminating the factual premise for Sierra Negra's initial allegations.

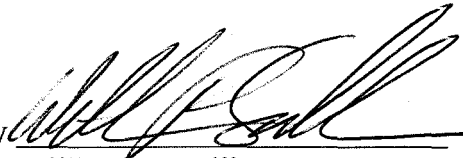
1 service to be rendered by a single provider, than it is necessary for the same provider to
2 render local, long distance and pay phone telephone service, or to render electrical service at
3 the generation, transmission and distribution levels.
4

5 **Conclusion**

6 Sierra Negra has filed an untimely application that seeks to unduly broaden the
7 issues to be presented to the Commission without presenting "good cause" therefore. The
8 Application to Intervene and Request to Supplement Record must be summarily denied.
9

10 RESPECTFULLY SUBMITTED THIS 12th day of October, 2005.

11 CURTIS, GOODWIN, SULLIVAN,
12 UDALL & SCHWAB, P.L.C.

13
14 By 
15 William P. Sullivan, Esq.
16 2712 North Seventh Street
17 Phoenix, Arizona 85006-1090
18 Attorneys for Water Utility of Greater
19 Tonopah, Inc.
20
21
22
23
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28

1 PROOF AND CERTIFICATE OF MAILING

2 I hereby certify that on this 12th day of October, 2005, I caused the foregoing
3 document to be served on the Arizona Corporation Commission by delivering the original
4 and thirteen (13) copies of the above to:

5 Docket Control
6 Arizona Corporation Commission
7 1200 West Washington
Phoenix, Arizona 85007

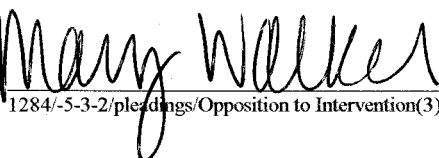
8 With copies thereof hand-delivered/
9 mailed this 12th day of October to:

10 Ernest Johnson, Director
11 Utilities Division
12 Arizona Corporation Commission
13 1200 West Washington
Phoenix, Arizona 85007

14 Yvette B. Kinsey, ALJ
15 Hearing Division
16 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

17 Keith Layton
18 Legal Division
19 Arizona Corporation Commission
20 1200 West Washington
Phoenix, Arizona 85007

21 Sheryl A. Sweeney
22 Michele L. Lorenzen
23 Ryley Carlock & Applewhite
24 One North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4417
Attorneys for Sierra Negra Ranch, LLC

25
26 
27 _____
28

1284/-5-3-2/pledings/Opposition to Intervention(3)

EXHIBIT A

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 **JEFF HATCH-MILLER, CHAIRMAN**

4 **WILLIAM A. MUNDELL**

5 **MARK SPITZER**

6 **MIKE GLEASON**

7 **KRISTIN K. MAYES**

8 IN THE MATTER OF THE
9 APPLICATION OF WATER UTILITY OF
10 GREATER TONOPAH, INC., FOR AN
11 EXTENSION OF ITS CERTIFICATE OF
12 CONVENIENCE AND NECESSITY

DOCKET NO. W-02450A-05-0430

AFFIDAVIT OF J. JOHN MIHLIK, SR.

13 I, J. John Mihlik, Sr., upon first being duly sworn upon my oath do say:

- 14 1. I am the President of Water Utility of Greater Tonopah.
- 15 2. In my role as President of WUGT I meet with landowners and
16 prospective developers who are interested in receiving water service
17 from WUGT. Often these meetings occur with prospective purchasers
18 who are undertaking due diligence reviews, many of whom never
19 purchase the property or proceed with development.
- 20 3. On or about June 7, 2005, I met with Bryan P. O'Reilly who represented
21 himself as being affiliated with Sierra Negra Ranch, LLC, a Nevada
22 limited liability company.
- 23 4. The purpose of the meeting was to discuss the availability and general
24 terms under which water and/or sewer service might be provided to a
25 prospective development by WUGT.
- 26 5. During the June 7, 2005 meeting with Mr. O'Reilly, I informed Mr.
27
28

1 O'Reilly that WUGT intended to file with the Arizona Corporation
2 Commission an Application whereby the Commission's records would
3 be corrected to reflect WUGT rather than West Phoenix Water
4 Company, Inc., as the certificate holder, over a section and ½ of land,
5 including lands Mr. O'Reilly was discussing.
6

7 6. The application was filed with the Commission three days later on June
8 10, 2005.
9

10 7. I next met with Mr. O'Reilly on August 9, 2005.

11 8. The focus of the August 9, 2005 meeting was a general discussion
12 regarding the provision of water and/or sewer service by WUGT and the
13 nature of its service within its existing certificated area.
14

15 9. During the August 9, 2005 meeting with Mr. O'Reilly, I briefly
16 discussed the fact that the application involving the transfer of the
17 certificate of convenience and necessity from West Phoenix Water
18 Company, Inc. to WUGT was presently pending before the Arizona
19 Corporation Commission.
20

21 10. At no time was I informed that Sierra Negra Ranch, LLC was the legal
22 title holder to any land within WUGT's certificated area, or the area
23 inadvertently reflected on the Commission's records as still held by
24 West Phoenix Water Company, Inc.
25

26 11. I was under the impression that Sierra Negra Ranch, LLC was meeting
27 with WUGT as part of a due diligence investigation.
28

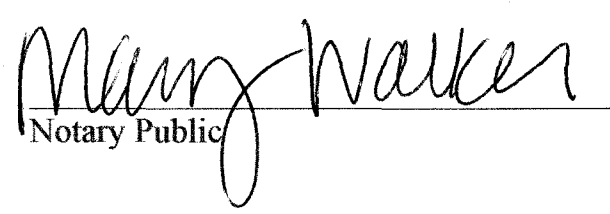
12. At no time did Mr. O'Reilly indicate that Sierra Negra Ranch, LLC had any concern with, or intended to participate in the proceedings before the Commission involving the correction of the Commission's records to reflect WUGT as the certificate holder in lieu of West Phoenix Water Company, Inc.

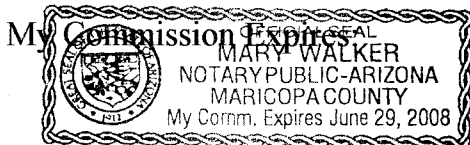
Further affiant sayeth naught.


J. John Mihlik, Sr.

STATE OF ARIZONA)
) ss.
County of Maricopa)

The above instrument was executed and acknowledged before me this 7th day of October, 2005, by J. John Mihlik, Sr.


Notary Public



F:\1284\5-3-2 (West Phoenix CC&N Transfer)\Pleadings\Affidavit of John Mihlik 2.doc

EXHIBIT B

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 **JEFF HATCH-MILLER, CHAIRMAN**

4 **WILLIAM A. MUNDELL**

5 **MARK SPITZER**

6 **MIKE GLEASON**

7 **KRISTIN K. MAYES**

8 IN THE MATTER OF THE
9 APPLICATION OF WATER UTILITY OF
10 GREATER TONOPAH, INC., FOR AN
11 EXTENSION OF ITS CERTIFICATE OF
12 CONVENIENCE AND NECESSITY

DOCKET NO. W-02450A-05-0430

AFFIDAVIT OF J. JOHN MIHLIK, JR.

13 I, John Mihlik, Jr., being first duly sworn upon my oath, do attest to the following:

14 1. I am the Chief Financial Officer of Water Utility of Greater Tonopah, Inc.
15 ("Company").

16 2. On August 1, 2005, I was preparing an email response to Staff's email request
17 for information for any engineering plans for the West half of Section 30 and all of Section
18 31, Township 2 North, Range 6 West, in Maricopa County, Arizona.

19 3. At the instruction of John Mihlik, Sr., I phoned Bryan P. O'Reilly on August 1,
20 2005 to discuss the Staff's request for information.

21 4. During the phone conversation, I informed Mr. O'Reilly that the Company was
22 in the process of transferring the CC&N from West Phoenix Water Company to Water
23 Utility of Greater Tonopah in order to correct the Commission's records and to provide
24 additional information at Staff's request.
25
26
27
28

1 5. On August 5, 2005, I supervised the mailing of notice to the nine property
2 owners located in the west half of section 30 and all of section 31 located in T2N, R6W,
3 Maricopa County, Arizona (the "Subject Area").
4

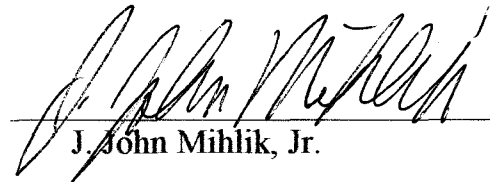
5 6. The Maricopa County Assessor's website was used to identify the names and
6 addresses of the property owners.

7 7. Phoenix I-10 LLC was listed as the owner of all of the property in Section 31,
8 so I caused the notice to be mailed first class prepaid to Phoenix I-10 LLC at the address
9 listed on the Assessor's website.
10

11 8. The notice has never been returned to WUGT.

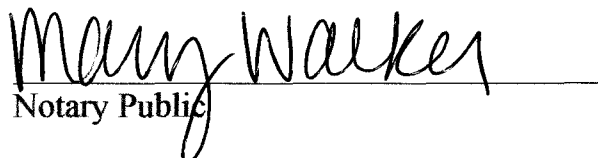
12 9. Until Sierra Negra Ranch, L.L.C. filed its Motion to Intervene on October 3,
13 2005, no one at the Company was aware that it held, or claimed to hold legal title to
14 Section 31.
15

16 Further affiant sayeth naught.

17
18 
J. John Mihlik, Jr.

19 STATE OF ARIZONA)
20) ss.
21 County of Maricopa)

22 The above instrument was executed and acknowledged before me this 12
23 day of October, 2005, by J. John Mihlik, Jr.

24 
Notary Public

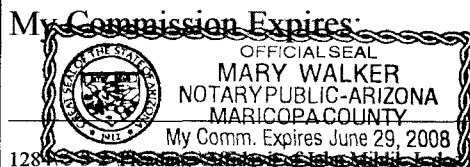


EXHIBIT C

Public Notice

**PUBLIC NOTICE OF HEARING
ON THE APPLICATION
OF WATER UTILITY OF
GREATER TONAPAH,
INC. FOR AN EXTENSION
OF ITS CERTIFICATE
OF CONVENIENCE AND
NECESSITY.**

(W-02450A-05-0430)

On June 10, 2005, Water Utility of Greater Tonopah, Inc., ("Tonopah" or "Applicant") filed an application with the Arizona Corporation Commission ("Commission") for an extension (transfer) of its Certificate of Convenience and Necessity ("CC&N") to provide water utility service in Maricopa County, Arizona. If the application is granted, the Applicant would be the exclusive provider of water service to the proposed area, and would be required by the Commission to provide service under rates and charges and terms and conditions established by the Commission. The application is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and at the offices of the Company, 3800 N. Central Ave., Ste. 770, Phoenix, AZ 85012.

The Commission will hold a hearing on this matter beginning September 12, 2005 at 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comment will be taken on the first day of the hearing.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to the Applicants or its counsel and to all parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.

2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Applicant, a shareholder of the Applicant, etc.).

3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before August 24th, 2005. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. Failure to intervene will not preclude any potential customer from appearing at the hearing and making a statement on such person's own behalf. You will not, however, receive any further

notice of the proceeding unless requested by you.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602-542-3931, E-mail 19hogan@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

Published in the West Valley View, and the West Valley Business, on August 12, 2005.

WEST VALLEY BUSINESS

200 W. Wigwam Blvd., Litchfield Park, Az. 85340-4636 ♦ (623) 535-VIEW [535-8439]

AFFIDAVIT OF PUBLICATION

State of Arizona

County of Maricopa

I, Elliott Freireich, publisher of West Valley View and West Valley Business, newspapers of general circulation in Avondale, Buckeye, Goodyear, Litchfield Park and Tolleson, Arizona, attest that the legal advertisements for

Water Utility of Greater Tonopah, Inc.

W- 02450A-05-0430, Public Notice

will be has been published on

August 12, 2005

Elliott Freireich

Elliott Freireich, Publisher

08-17-05

Date

SUBSCRIBED AND SWORN TO BEFORE ME ON THE

17 DAY OF August (Month), 2005 (YEAR)

NOTARY SIGNATURE:

Rene Leeann Hartmann

